

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

NICK’S GARAGE, INC.,)	
)	
)	Civil Action No.
)	5:12-cv-00777-MAD-DEP
)	
Plaintiff,)	
v.)	
)	
PROGRESSIVE CASUALTY INSURANCE)	
COMPANY; NATIONAL CONTINENTAL)	
INSURANCE COMPANY; PROGRESSIVE)	
ADVANCED INSURANCE COMPANY;)	
PROGRESSIVE DIRECT INSURANCE)	
COMPANY; PROGRESSIVE MAX)	
INSURANCE COMPANY; PROGRESSIVE)	
NORTHERN INSURANCE COMPANY)	
PROGRESSIVE PREFERRED INSURANCE)	
COMPANY; and PROGRESSIVE SPECIALTY)	
INSURANCE COMPANY)	
)	
Defendants.)	

NOTICE OF MOTION FOR SUMMARY JUDGMENT

NOW COMES, defendants Progressive Casualty Insurance Company, National Continental Insurance Company, Progressive Advanced Insurance Company, Progressive Direct Insurance Company, Progressive Max Insurance Company, Progressive Northern Insurance Company, Progressive Preferred Insurance Company, and Progressive Specialty Insurance Company (“Defendant” or “Progressive”), by and through counsel, pursuant to Rule 56 of the Federal Rules of Civil Procedure and Rule 7.1 of the Local Rules of this Court, and hereby moves for summary judgment seeking dismissal of Plaintiff’s Amended Complaint in its entirety.

Submitted in support of Progressive’s Motion for Summary Judgment are Progressive’s Notice of Motion, Declaration of Kymberly Kochis, dated August 29, 2014 with exhibits,

Progressive's Statement of Material Facts, and Progressive's Memorandum of Law, for oral arguments to take place on September 29, 2014.

WHEREFORE, the undersigned, on behalf of Progressive, respectfully requests an Order of this Court:

- 1) granting Progressive's Fed. R. Civ. P. Rule 56 Motion for Summary Judgment, and dismissing with prejudice Plaintiff's Amended Complaint in its entirety; and
- 2) granting Progressive such other, further and/or different relief as this Court deems just and proper.

Dated: New York, New York
August 29, 2014

Respectfully submitted,

NELSON BROWN & CO.

By: /s/ Kimberly Kochis
Kimberly Kochis, Esq.
Michael R. Nelson, Esq.
Veronica Wayner, Esq.
17 State Street, 29th Floor
New York, New York 10004
Tel: (212) 233-0130
Fax: (212) 233-0172
kkochis@nelsonbrownco.com

*Attorneys for Defendants Progressive Casualty
Insurance Company, National Continental
Insurance Company, Progressive Advanced
Insurance Company, Progressive Direct Insurance
Company, Progressive Max Insurance Company,
Progressive Northern Insurance Company,
Progressive Preferred Insurance Company and
Progressive Specialty Insurance Company*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Motion of Defendants' Motion for Summary Judgment was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the attorneys of record for all parties registered therewith on this 29th day of August, 2014.

/s/ Kymberly Kochis